ASp
la revue du GERAS

68 | 2015
Varia

Ruth Breeze, Maurizio Gotti, Carmen Sancho Guinda (eds.), *Interpersonality in Legal Genres*

Bern, Berlin, Brussels, Frankfurt am Main, New York, Oxford, Vienna: Peter Lang, 2014

Isabelle Richard

Electronic version
URL: http://journals.openedition.org/asp/4744
DOI: 10.4000/asp.4744
ISSN: 2108-6354

Publisher
Groupe d'étude et de recherche en anglais de spécialité

Printed version
Date of publication: 23 October 2015
Number of pages: 132-138
ISSN: 1246-8185

Electronic reference
Isabelle Richard, « Ruth Breeze, Maurizio Gotti, Carmen Sancho Guinda (eds.), *Interpersonality in Legal Genres* », *ASp* [Online], 68 | 2015, Online since 23 October 2015, connection on 03 November 2020.
URL : http://journals.openedition.org/asp/4744 ; DOI : https://doi.org/10.4000/asp.4744

Ruth Breeze, Maurizio Gotti, Carmen Sancho Guinda (eds.), *Interpersonality in Legal Genres*

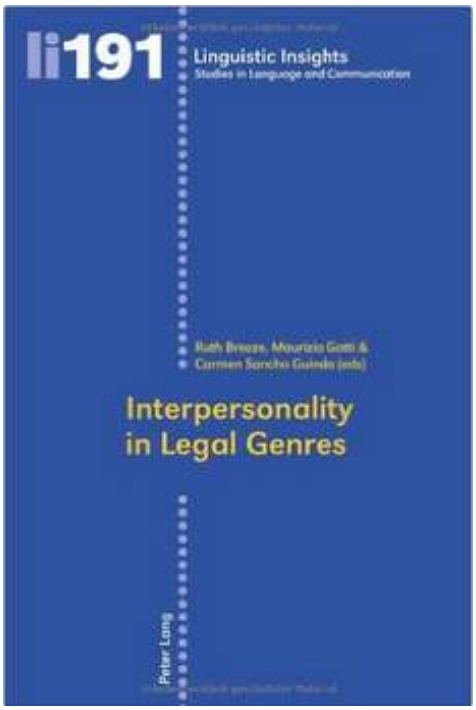
Bern, Berlin, Brussels, Frankfurt am Main, New York, Oxford, Vienna: Peter Lang, 2014

Isabelle Richard

REFERENCES

Breeze, Ruth, Maurizio Gotti & Carmen Sancho Guinda (eds.). 2014. *Interpersonality in Legal Genres*. Bern, Berlin, Brussels, Frankfurt am Main, New York, Oxford, Vienna: Peter Lang, Linguistic Insights 191. 393 pp. ISBN 978-3-0343-1524-1.

1 *Interpersonality in Legal Genres*, co-edited by Ruth Breeze, Maurizio Gotti and Carmen Sancho Guinda, all widely-known figures in the field of legal language studies, is volume 191 in the Peter Lang series Linguistics Insights subtitled Studies in Language and Communication. This in itself is a clear indication of the linguistics and communication orientation of the volume, which is a collection of articles by a bevy of specialists in the area of legal language studies. Fourteen authors (including the co-editors) were commissioned to contribute to the different chapters, all "adopting a genre approach and doing a systematic analysis of language" (p. 17) within various theoretical frameworks and perspectives. This diversity is undeniably one of the strengths of the volume as the latter provides the reader with in-depth analyses of interpersonal features in a wide selection of legal genres. As such, the book probably targets a wide readership composed of specialists in the fields of legal language but also other specialised languages, applied linguistics, etc. Although most chapters use technical linguistic/discourse analysis terms and draw extensively on previous research, the attention paid in the introduction (see below) to defining the scope and objective of the book is likely to help less specialised readers follow the inner logic of, and developments presented in the book. All in all, the volume is of interest to anyone involved in language studies as well as legal practitioners and lay readers who want to learn how to decipher the rhetoric of certain legal documents. The chapters focus on varieties of English for law in several systems (Common Law, EU law, international law, transnational law), various countries (the UK, the USA or Hong Kong)[1] and, in one case (the chapter by Mazzi), on the English version of European documents. The corpora referred to all consist of late twentieth-century and twenty-first century texts.



2 The volume is methodically structured, starting with a clearly organised introduction signed by all three editors. Great care has been taken to define the key notion of "interpersonality" at the core of the volume, highlighting three important points. The first point developed in this very useful introduction bears on the complexity of the concept of interpersonality in Discourse Studies, showing why it is inherently "fuzzy" (p. 9-13) and how its implicit dialogic aspect may be identifiable in discourse. Secondly, it points out (and this is certainly the most remarkable aspect of the volume) that a language traditionally characterised by its impersonal style, as legal language usually is, necessarily involves variable degrees of interpersonal relations. Markers of the writer's presence are hence always present in the text and bear an influence on the interpretation of the message. Such markers logically depend upon the objectives pursued by the writers as well as their addressees' expectations and legal knowledge.

The third point in the introduction spans the different contributions. Though the degree of detail does, to a certain extent, unveil the contents and conclusions of the chapters, they may nevertheless prove useful to the less expert readers by providing a preparatory insight into some aspects of the notion of "interpersonality" in a large variety of documents set in various legal contexts, systems and settings. This diversity matches the objective of the book, which aims at developing recent but relatively scarce studies on the notion of "interpersonality" in legal discourse, first by encompassing a large range of legal genres, and secondly by offering a broader-angled definition of "interpersonality" than the one adopted in previous studies, which tend to be "most often confined to modality".

3 The book embraces the three types of legal discourse (namely, judiciary, contractual and legislative) but also, in two cases, paralegal and non-legal discourse (see below). If the chapters may seem somewhat eclectic (ranging from judicial interpretation to corporate press releases), they follow a pattern that is consistent with the communicative stance indicated in the title of the book. The three parts of the volume are logically defined in terms of interactions between, on the one hand, legal experts and, on the other, the various interlocutors they might encounter, i.e. other legal experts (part 1), mixed audiences (part 2) and lay people (part 3). Each part is divided into four or five independent chapters in which each author analyses the specific interpersonal features used in more or less codified legal genres and their varying levels of formality—a stylistic approach that is yet another strength of the volume.

4 Part 1 deals with the following types of genre, mentioned here in the order in which they appear: judgments by last-resort judges from two different legal families (Mazzi), EU directives (Salmi-Tolonen), "charter parties" or contracts used in the shipping community (Orts Llopis), academic research articles (Sala) and barristers' opinions (Hafner). Each chapter explores very distinct topics but remains closely related to the theme of the book.

5 Using corpus linguistics on the one hand, and discourse analysis on the other, Mazzi compares two synchronic corpora comprised of judgments handed down by the Supreme Court of Ireland (SCI) and the European Court of Justice (ECJ) relative to the interpretation of key terms or phrases in cases involving agriculture. The author identifies different strategies adopted by the judges to establish their interpersonal positioning and concludes that Irish judges, who speak in their own names, seem more cautious in their discourse than ECJ judges, who deliver judgments in the name of the Court and tend to adopt a more peremptory, impersonal style. Additionally, the ECJ's more authoritative style may also be explained by the fact that, as a supra-national body, it has jurisdiction over the SCI on certain issues, notably those involving interpretation, which could lend a higher degree of impersonality to the style ECJ judges adopt since they are "in a position of higher authority" (p. 58).[2] Furthermore, as "agriculture tends to be a hot and at times deeply controversial issue" (p. 43), the reviewer suggests that the reigning situation of controversy could also contribute to explaining the more imperative tone used by ECJ judges who are expected to define terms relative to this area in an authoritative manner.

6 Salmi-Tolonen is also interested in EU legal discourse but focuses on its legislative branch. Interestingly, she shows that Directives, which have a prescriptive function, resort to markers of authority such as the modals *shall*, *should* and *may*[3] but they sometimes also display rhetoric devices aimed at persuading the recipients (i.e.

Member States) of "their good purpose" (p. 78) in order to facilitate implementation. Though the study is confined to one Directive, its results are convincing enough to call for compiling a synchronic corpus (possibly also a diachronic corpus) of other Directives to check whether such rhetoric devices are used to similar ends. The next chapter moves on to contractual discourse.

7 Orts Lloppis takes great care to explain the historical and legal context of "charter parties" in order to emphasise their singularity. Although these contracts of carriage by sea "are governed by the ordinary law of contracts", the law of reference is "a third legal order" known as *lex mercatoria* or "transnational commercial law" (p. 89). Another specificity of these contracts is that most of them follow the standardised structure and wording issued by BIMCO, "an independent organization that aims at protecting the interests of the international shipping industry" (p. 90). However, as the reader learns later on, the interests in question are not those of the shipping industry at large but only of a certain number of actors thereof. Capitalising on Swales's (1981, 1985, 1990) and Bhatia's (1993, 2002) concept of specialised discourse community, the author demonstrates why such contracts constitute a genre that turns out to be distinct from other types of contract. Through a systematic analysis of the lexicon, syntax, or uneven distribution of obligations and rights, Orts Llopis convincingly demonstrates that charter parties are blatantly asymmetrical in that they favour one party (the ship owners) to the detriment of the other (the charterer). It follows that BIMCO contracts are subtly drawn up with a view to create some imbalance between the contractual parties. The study is also indicative of the fact that a prominent specialised community (BIMCO being "the largest of the international shipping associations", p. 90) may impose a legal sub-genre that draws on the standards of the umbrella genre in order to serve their own interests.

8 Focusing on dialogism, Sala studies a corpus of eighty legal research articles that he compares to a corpus of 240 academic articles from other disciplines (economics, medicine and applied linguistics). Both corpora cover a time span from 1990 to 2012. Legal research articles are one of the two genres in the book that are not strictly "legal" in the sense that they do not contribute to creating or enforcing the law but comment upon legal issues. Through a pragmatic, textual and morpho-syntactic analysis, the author examines how the careful use of interrogatives enables writers to establish a dialogical framework aimed ultimately at convincing the reader of their arguments. The particular interest of this contribution is to emphasise how a genre that is claimed to be impersonal and factual can nevertheless express a strong writer's voice. To this end, Sala puts forward the strategic use of various types of question and shows how they reveal the writer's interpersonal positioning and persuasive objectives.

9 Finally, Hafner's chapter explores the way in which practising barristers draw up their written opinions (i.e. expert analyses providing "a balanced legal view" on the merits of a case, p. 137), as opposed to the way in which novice barristers write theirs. From a different perspective, drawing on recent research on stance, Hafner examines how uncertainty is handled by experienced and inexperienced barristers. Using a sample of opinions by five experienced barristers and nineteen novice barristers in Hong Kong, he shows the stylistic subtleties deployed by experienced barristers to express the uncertainty inherent to this genre, while managing to maintain an authoritative tone. By contrast, a comparison between an expert text and a novice text suggests that novice barristers tend to weaken the strength of their arguments through an

inadequate handling of linguistic and discursive devices, in particular regarding epistemic modality. The chapter suggests that such deficiencies could be detrimental to them as practitioners and indicates that the command of this legal genre should therefore be part of the training curriculum.

10 Part 2 is divided up into five chapters which examine interpersonality in statutory writing (Bhatia), legal decisions by the National Transportation Safety Board (NTSB) in the US (Sancho Guinda), legislative drafting guides and manuals (Williams), arbitration awards (Vázquez-Orta) and patents (Arinas Pellón). The challenge posed in this section is clearly the varying degrees of the addressees' legal knowledge and expectations. Through an analysis of interpersonal constraints in statutory writing, Bhatia suggests solving the problem of heterogeneity by producing different versions of a statute, i.e. a legislative version aimed at experts and an informative version destined to lay people. The expert version, however, should not be unnecessarily complex, which is in keeping with the Plain Language Movement proposals to clarify legal documents, even when they are intended for expert readers. Bhatia's chapter serves a dual purpose: not only does the author show that statutory writing is not as impersonal as is commonly thought, he also suggests a number of "easification" strategies (p. 171-177) to reduce the level of complexity inherent to this genre.

11 Sancho Guinda's chapter tackles the topic of a heterogeneous readership through a different type of text as she explores a corpus of legal decisions by the NTSB when it acts as a court of appeal. This time, this complex communicative function is resolved through a single version of the text that targets both experts (aeronautical and legal communities) and non-experts. Sancho Guinda analyses a 2012 corpus of NTSB decisions and contrasts her findings with those of an online multinational corpus of aviation decisions issued by English-speaking courts (the reviewer assumes the multinational corpus time span is similar to that of the NTSB corpus). Through a systematic study of engagement, she shows that the NTSB judgments manage to achieve a degree of reader-friendliness while maintaining their ties with the expert community, and that the rhetorical and discursive choices made by the NTSB "undermine the ingrained view of legal texts as impersonal and uncommitted" (p. 205).

12 The following chapter focuses on legislative guides. Williams distinguishes them from legislative drafting manuals, the former targeting a readership potentially made of experts and non-experts whereas the latter are essentially meant for fellow drafters. Taking the example of the Scottish Government's online booklet *Plain Language and Legislation* (2006)—which bears the unique characteristic of being available in audio version as well—he shows how a writer may combine an impersonal stance to express authority and objectivity with persuasive strategies that are highly but subtly subjective (p. 227).

13 In his analysis of a selection of Domain Name Arbitration Awards, Vázquez-Orta arrives at a complementary conclusion. From an interpersonality point of view, the awards consist of two major sections, one displaying highly dialogic elements (in reference to Bakhtin's dialogism concept, 1981) while the other, that features at the very end of the awards and is extremely brief, is much more impersonal as it encapsulates the panellists' decisions. In exploring authority "through the lens of dialogism" (p. 252), Vázquez-Orta shows that writers' engagement may contribute to creating a text that is, in fact, highly authoritative and fraught with legalese. As shown by other contributors,

this chapter underlines the fact that interpersonal factors "play a decisive role" (p. 240) in the professionals' practice.

14 Patents are another case in point. As pointed out by Arinas Pellón, this genre has to date received scarce attention from linguists. According to his study (focussing essentially on US patents), patent drafters use interpersonal strategies in a three-fold perspective: firstly, to undermine the efficiency of previous similar inventions (the ultimate goal being to persuade judges and patent examiners of the novelty of the invention under scrutiny); secondly, to dissuade infringement, and thirdly, to seek the widest intellectual rights. In all three cases, writers develop persuasive rhetoric to achieve their goals.

15 One would expect interpersonality features to be either more obvious or more needed in the case of non-expert readers so as to facilitate reading and understanding. However, the third and final part of the book, which explores interpersonality in genres as diverse as letters of advice (Breeze), mediation discourse (Gotti), instructions to juries (Anesa) and press releases in international arbitration cases (Corona), draws a more complex picture. Breeze's chapter is an echo of Hafner's, the major difference being the readership of the genre she explores. Additionally, Breeze devotes the fourth part of her chapter to guidelines for novice L2 legal writers. These letters broadly follow the well-known "IRAC" structure aimed at helping lawyers organise their analyses (i.e. identify the Issue, state the Rules, explain the Application and end with a Conclusion), which lends the required authoritativeness to the letter, but they also display stylistic choices adapted to the ongoing dialogue with their readers/clients.

16 The next two chapters tackle genres that have an oral dimension. Using transcripts from mediation cases, Gotti analyses the interpersonal strategies adopted by mediators to fulfil their roles in assisting the parties in reaching an agreement. Unsurprisingly, mediators need to possess verbal and non-verbal communication techniques typical of conflict resolution, together with a certain degree of psychological finesse in order to implement the required discursive strategies and reach their goal of reconciling averse positions. Anesa focuses on the orality of written jury instructions in the US and shows that though they display the impersonality typical of legal discourse, they also feature interpersonal markers in line with Plain English instructions (such as the use of the pronoun "you" and that of active verbs).

17 The last chapter examines interpersonality in corporate press releases in a context of arbitration, i.e. "a mechanism or legal device for the resolution of commercial disputes between corporations" short of litigation (p. 356). These documents do not qualify as a legal genre, the "arbitration press release" pertaining to corporate communication. Through the compared analysis of press releases issued by two conflicting American companies, the author shows that the genre is deeply modified by the arbitration context, moving away from the usual style and discourse of self-promotion toward legal-style, self-defence rhetoric.

BIBLIOGRAPHY

To conclude, as pointed out earlier, the variety of the genres tackled in the volume is one of its major strengths, albeit at the inevitable risk of creating a highly composite portrait of interpersonality in genres which are not always strictly "legal". It would have been useful to find a definition of the adjective in the introduction. It is also a matter of regret that the final index should mix notions with a few authors' names. Apart from these two remarks, the volume is undeniably a significant contribution to the communicative aspect of legal English and goes a long way towards proving that impersonality in legal genres tends to be interpersonality in disguise. Most encouragingly, the authors have managed to remove some of the "fuzziness" attached to the concept by exploring a fruitful line of research in legal language studies that will hopefully lead to further investigations, as this topic is key to interpreting legal messages and clarifying the various, and sometimes hidden, messages conveyed by written and oral communication in law.

BAKHTIN, Mikhail. 1981. *The Dialogic Imagination.* Austin & London: The University of Texas Press.

BHATIA, Vijay K. 1993. Analysing Genre: Language Use in Professional Settings. London: Longman.

BHATIA, Vijay K. 2002. "Applied genre analysis: A multi-perspective model". *Ibérica* 4, 3–19.

Court of Justice of the European Union. 19 June 2015. European Union, retrieved from <http://europa.eu/about-eu/institutions-bodies/court-justice/index_en.htm> on 16 July 2015.

RICHARD, Isabelle. 2008: « *Should*, litote modale ? L'exemple des arrêts de la Cour suprême canadienne ». *Bulletin de la Société de Stylistique Anglaise* 31 « La Résurgence », 93–102.

SWALES, John M. 1981. "Definitions in science and law –Evidence for subject-specific course component". *Fachsprache* 3/4,106–111.

SWALES, John M. 1985. "Citation analysis and discourse analysis". *Applied Linguistics* 7/1, 40–56.

SWALES, John M. 1990. *Genre Analysis*. Cambridge: Cambridge University Press.

NOTES

1. Hong Kong's law is essentially based on the English Common Law.
2. <http://europa.eu/about-eu/institutions-bodies/court-justice/index_en.htm>
3. It should be noted that the authority conveyed by *shall* and *may* can be explained partly by their etymology together with the context and situation in which they are used, whereas *should* essentially derives its authoritative interpretation from the interpersonal position of the utterer (Richard 2008).

AUTHORS

ISABELLE RICHARD

Université de Nantes, Isabelle.Richard@univ-nantes.fr